

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of THOMAS SANTANGELO and U.S. POSTAL SERVICE,
SOUTHEASTERN PLANT & DISTRIBUTION CENTER, Southeastern, PA

*Docket No. 02-2258; Submitted on the Record;
Issued January 22, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant sustained an injury in the performance of duty on or before February 8, 1999.

On June 26, 2000 appellant, then a 47-year-old mailhandler, filed a notice of occupational disease alleging that on or before February 8, 1999, he had pain in his legs, hips and spine due to years of loading and unloading postal trucks. Appellant submitted a December 8, 2000 report from Dr. John J. Kraus, Board-certified in physical medicine and rehabilitation, stating that appellant had low back pain, left hip pain and right hip pain and used a cane and a brace on his right leg. Dr. Kraus did not provide a diagnosis nor did he opine on the cause of appellant's condition.

By decision dated October 19, 2001, the Office of Workers' Compensation Programs denied appellant's claim since there was no established diagnosis and no reasoned medical opinion of record to support how appellant's claimed condition was caused by federal employment factors.¹

Appellant requested an oral hearing, which was held on March 25, 2002. At the hearing appellant's representative claimed that appellant was initially injured on February 8, 1999, when he fell from a chair and hurt his back, left hip and right shoulder. He stated that the claim was accepted by the Office but that it was currently before the Board on a termination issue. Appellant returned to work in a limited-duty capacity after the initial injury and aggravated his back condition, as well as his preexisting polio, which resulted in this occupational disease claim. He also quoted from testimony given at a prior oral hearing, although the hearing transcript and a physician's report are not of record.

¹ The Office noted in the decision that another claim for the same date of injury (File No. A03-0241284) was denied on July 10, 2000 and is currently being appealed in Washington, D.C. That decision is not in the record. The Board notes that an order was issued on September 28, 2001 under Docket No. 01-1818.

By decision dated June 14, 2002, the hearing representative affirmed the Office's October 19, 2001 decision.

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty on or before February 8, 1999.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.²

In this case, the only medical evidence of record is the December 8, 2000 report from Dr. Kraus, who did not provide a diagnosis for appellant's condition and did not opine on the cause of appellant's condition or related any condition to appellant's federal employment duties. Although appellant identified the employment factors that he alleged caused or aggravated his condition, he did not submit medical evidence establishing that these employment duties were the cause of the condition for which compensation is claimed. At the March 25, 2002 oral hearing, appellant's representative quoted from a transcript of a previous oral hearing and from a physician's report from the previous claim. The Board notes that these quotes, without the actual transcript or medical report contained in the record, are of no probative value and insufficient to establish causal relationship in this claim.

As appellant did not submit a medical report establishing a diagnosis for his condition or a rationalized medical opinion establishing causal relationship between his condition and federal employment factors, he did not meet his burden of proof and the Office properly denied his claim.

² *Haydee Martinez*, Docket No. 01-833 (issued October 29, 2001).

The June 14, 2002 and October 19, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
January 22, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member